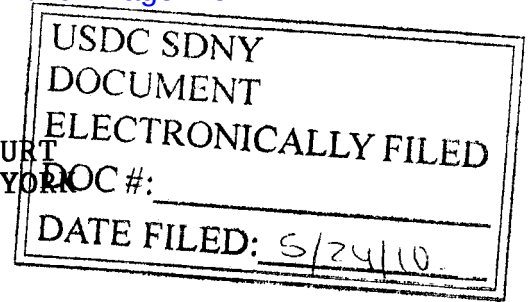


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



THOMAS MARMOLEJOS,
Petitioner,

Civil No. 05 CIV. 10693

v.

UNITED STATES OF AMERICA,
Respondent.

MOTION FOR RELIEF FROM FINAL JUDGMENT (b)(6)

NOW COMES the Petitioner, Thomas Marmolejos, pro se, and respectfully moves this Court for relief from the final judgment entered by this Court on September 15, 2006, denying Petitioner's motion under 28 U.S.C. §2255.(Civil No. 05-CV-1069 3n-DC) Mr. Marmolejos submits this motion pursuant to Federal Rules of Civil Procedure 60(b)(4) and 60(d)(1)(3) and/or its independent action doctrine, due to the fundamental defects in the integrity of the habeas proceeding, that occurred during this habeas proceeding. Specifically, Mr. Marmolejos asks the Court to vacate its September 15, 2006 judgment because:

1. The United States committed fraud upon the Court by misrepresenting Mr. Marmolejos' sentencing claim to the Court, thereby preventing the Court from adjudicating this ground for relief.

2. Alternatively, the prior judgment is no longer equitable because it was based on an erroneous interpretation of Mr. Marmolejos' sentencing claim, which resulted in the Court failing to adjudicate this ground for relief.
3. The Court further failed to adjudicate the confrontation clause and consideration element claims raised in Mr. Marmolejos' §2255 motion.

Because the foregoing defects directly affected the September 15, 2006 Judgment entered in this prior habeas proceeding, Mr. Marmolejos' §2255 motion must be reopened to allow a proper and full adjudication on the merits of his claims. Alternatively, Mr. Marmolejos has submitted sufficient proof within his accompanying memorandum of law and exhibits to warrant an independent investigation by the Court and an evidentiary hearing in this matter.

Accordingly, Mr. Marmolejos ask the Court to grant this motion as requested.

Respectfully Submitted on this, the 21 day of May, 2010.



Thomas Marmolejos
Reg. No. 48376-054
USP-Canaan
P.O. Box 300
Waymart, PA 18472

Petitioner-Pro se

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May 21, 2010

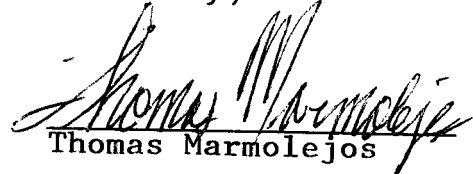
Clerk of the Court
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Thomas Marmolejos v. USA; 99 Cr. 1048 (DC)
Motion for Relief From Final Judgment

Dear Clerk of the Court:


Enclosed please find an original Motion for Relief From Final
Judgment and Exhibits.

Sincerely,


Thomas Marmolejos

CERTIFICATE OF SERVICE

I, Thomas Marmolejos, hereby certify under the penalty of perjury that a true and accurate copy of the foregoing has been sent, via 1st Class U.S. Mail, postage prepaid, to the Office of the U.S. Attorney; Southern District of New York; One Saint Andrew's Plaza, New York, NY 10007, on this, the 21 day of May, 2010.


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